

Summary of Telephone Interviews

An interview was held with the Examiner on July 2, 2007. The Examiner and Applicant's representatives discussed the priority claim, and the need for a petition and fee to accept the priority claim presented in a previously entered amendment. The participants also discussed amendments to Claim 8 to clarify certain aspects of the invention, and the addition of new claims dependent on Claim 8 to recite specific features of the invention.

A further interview was held with the Examiner on August 20, 2007, in which the Examiner indicated that the Claims presented in a draft of this Response were allowable. Applicant appreciates the careful examination and allowance of the present Claims, and requests expeditious processing to issuance.

Remarks

Status of the Application

In the Office Action of 2/26/07, the Office rejected Claim 8 under 35 USC 103 based on a combination of US Patent 5,817,458 (termed "King and Hallowitz 1998" by the Office) and US Patent Application 09/139,663 (publication 20010008760; termed "King and Hallowitz 2001" by the Office).

Amendments to the Claims

Applicant has amended Claim 8 as discussed with the Examiner in the telephone interview of 7/2/07, making more clear certain aspects of the invention.

Applicant has added new Claims 17-20, dependent on Claim 8, reciting specific steps involved in one step of the method of Claim 8. The specific steps recited in the new claims were disclosed in the originally filed claims and specification. See, e.g., paragraph [0008] of the specification.

Rejection of Claim 8

As required by the Examiner in the telephone interview of 7/2/07, Applicant has previously submitted the amendment to the priority claim with a corresponding petition and fee. Applicant submits that the references relied on for the rejection of Claim 8 are now properly in the priority chain of the present application, and that the corresponding rejection is moot.

The Examiner and the Applicant's representatives discussed in the telephone interview of 7/2/07 the state of the art at the time of the invention, including the art's progress from polyclonal antibodies to monoclonal antibodies. That progress was intended to overcome certain shortcomings of polyclonal antibodies, and the scientific literature at the time expressed skepticism that mixtures of monoclonal antibodies would not suffer from the same shortcomings of polyclonal antibodies, and presented specific examples of problems with mixtures of

monoclonal antibodies. Accordingly, the art would not have suggested the invention of the present Claims. See, e.g., MPEP 716.05. The Examiner requested that the Applicant file a Declaration concerning that discussion. Applicant submits herewith a Declaration as requested. Since there is no art-based rejection, and there is no art of record that teaches or suggests the present invention, and the only evidence of record is Applicant's filing and the attached Declaration, Applicant submits that the present claims are allowable.

Further, even though some elements of the invention may have been known in the art, there would have been no motivation to combine them, since, as an example, a simple ELISA test would have been more cost-efficient to address the problems known at the time. Applicant's Specification provides the first suggestion to combine a plurality of monoclonal antibodies as in Applicant's Claim 8.